

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	
<b>v.</b>	<b>:</b>	<b>CRIMINAL NO. 99 -0045</b>
<b>DANIEL MILES</b>		
<b>a/k/a DANNY MILES</b>		
<b>a/k/a TONY MILLS</b>	<b>:</b>	

**GOVERNMENT’S GUILTY PLEA MEMORANDUM**

**I.     Introduction**

Defendant Daniel Miles is charged in a three count Indictment with possession with intent to distribute approximately 29 grams of cocaine base (“crack”), in violation of 21 U.S.C. § 841(a)(Count One), carrying a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c) (Count Two), and possession of a firearm after having been convicted of a crime punishable by more than one year’s imprisonment in violation of 18 U.S.C. § 922(g)(1) (Count Three). The charges stem from a December 8, 1998 investigation and arrest by Philadelphia Police narcotics officers.

**II.    Plea Agreement**

A copy of the plea agreement reached between the parties is attached as Exhibit “A” to this Memorandum. Under the terms of the agreement, the defendant agrees to plead guilty to Counts Two (carrying a firearm during and in relation to a drug trafficking offense) and Three (possession of a firearm by a convicted felon) of the Indictment, and the government agrees to dismiss Count One (possession with intent to distribute crack cocaine).

Other significant terms of the plea agreement are as follows:

1. The defendant agrees to cooperate fully and truthfully with the government.
2. Defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.
3. If the government in its sole discretion determines that the defendant has fulfilled all of his/her obligations of cooperation as set forth above, at the time of sentencing, the government will make the nature and extent of the defendant's cooperation known to the Court and move to allow the Court to depart from the Sentencing Guidelines pursuant to Sentencing Guideline § 5K1.1 and to impose a sentence below any mandatory minimum term of imprisonment pursuant to 18 U.S.C. § 3553(e), if the government, in its sole discretion, determines that the defendant has provided complete and substantial assistance in the investigation or prosecution of another person who has committed an offense, including testifying at any trial or proceeding as required. The defendant understands and agrees that: (1) the government will exercise its sole discretion regarding whether and how to investigate any information provided by the defendant; (2) as of the date of this agreement no determination has been made as to the defendant's eligibility for either a Section 5K1.1 or Section 3553(e) motion; and (3) the government may refuse to file a Section 5K1.1 or Section 3553(e) motion if this plea agreement is breached in any way including the commission of a crime after the date of this agreement. Finally, the defendant understands and agrees that the filing of such motion will not obligate the government to recommend a downward departure from the sentencing guidelines or the mandatory minimum term of imprisonment.

The government will also make whatever sentencing recommendation as to imprisonment, fines, forfeiture, restitution and other matters which the government deems appropriate at the time of sentencing.

4. The defendant understands that the Court may impose the following statutory maximum and mandatory minimum sentences: Count 2, 5 years imprisonment to be served consecutively to any other term of imprisonment, a \$250,000 fine, up to 3 years of supervised release, and a \$100 special assessment; Count 3, up to life imprisonment, a 15 year mandatory minimum term of imprisonment, a \$250,000 fine, up to 5 years of supervised release, and a \$100 special assessment.

5. The defendant may not withdraw the defendant's plea because the Court declines to follow any recommendation, motion or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

6. Pursuant to § 6B1.4 of the Sentencing Guidelines, the parties have entered into the a series of stipulations under the Sentencing Guidelines Manual effective November 1, 1998. It is understood and agreed that: (1) the parties are free to argue the applicability of any other provision of the Sentencing Guidelines, including offense conduct, offense characteristics, criminal history, adjustments and departures; (2) these stipulations are not binding upon either the Probation Department or the Court; and (3) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed. Among the stipulations agreed to by the parties are that MILES was carrying a firearm

a. On December 8, 1998 at about 8 p.m., DANIEL MILES a/k/a TONY

MILLS was sitting in the driver's seat of a car owned by his girlfriend, Jan Walker, pouring clear packets with an off-white chunky substance into his right hand from a pill bottle held in his left hand. Police Officer Walker at that time grabbed the bottle and 25 clear plastic packets containing crack from MILES' hands and removed MILES from the car. Police Officer Reynolds recovered a clear plastic baggie containing three large chunks of crack from MILES' inside jacket pocket. Walker recovered \$271 in currency from MILES. Reynolds also searched the car incident to arrest and recovered a Lorcin .380 handgun, serial number 119422, loaded with seven live rounds of ammunition, under the driver's seat. MILES knowingly possessed the firearm at the time immediately prior to arrest.

b. The parties agree and stipulate that the substance possessed by MILES at the time of his arrest was (1) cocaine base (2) "crack" as defined in Guideline Section 2D1.1, Note D, and (3) weighed approximately 29 grams.

c. The defendant has been convicted of at least the following offenses:

<u>Court No.</u>	<u>Charge</u>	<u>Sentence</u>	<u>Sentence date</u>
CP8202-1151	Burglary	Probation 2 yrs.	4/14/82
CP8410-1293	Attempted Burglary	Max. 2 yrs.	10/22/85
CP8502-0706	Criminal Trespass	Max. 2 yrs.	10/22/85
CP8710-0830	Burglary	Max. 4 yrs.	1/22/88
CP8709-2039	Criminal Trespass	Max. 2 yrs.	10/22/87

d. The defendant's 2 burglary and 1 attempted burglary convictions are "violent felonies" within the meaning of 18 U.S.C. § 924(e)(2)(B) and qualify him as an "armed career criminal" subject to the 15 year minimum mandatory to life imprisonment sentencing enhancements under 18 U.S.C. § 924(e) and U.S.S.G. § 4B1.4.

e. The defendant carried a firearm during and in relation to a drug trafficking offense, that is, possession with intent to distribute "crack."

f. The defendant used or possessed a firearm in connection with a controlled substance offense, and defendant's base offense level is 34, under U.S.S.G. § 4B1.4(b)(3)(A).

g. The defendant's criminal history category is VI, because the defendant used or possessed a firearm in connection with a controlled substance offense, possession with intent to distribute 29 grams of crack cocaine in violation of 21 U.S.C. § 841(a), under U.S.S.G. § 4B1.4(c)(2).

h. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for the defendant's offense making the defendant eligible for a 2-level downward adjustment under Guideline Section 3E1.1(a).

i. The parties agree and stipulate that, as of the date of this agreement, the defendant has assisted authorities in the prosecution of the defendant's own misconduct by timely notifying the government of the defendant's intent to plead guilty, making the defendant eligible for an additional 1-level downward adjustment under Guideline Section 3E1.1(b).

j. The parties agree and stipulate that deducting 3 levels from the defendant's offense level results in a total offense level of 31, which, with a criminal history category VI, results in a guideline range of imprisonment of 188-235 months. The parties stipulate that 60 months should be added to the term of any sentence imposed within this guideline range, based on the mandatory consecutive sentence to be imposed under 18 U.S.C. § 924(c).

k. The defendant stipulates to the forfeiture of the firearm and cash named in the Notice of Forfeiture contained in the indictment. The defendant further stipulates to the confiscation and disposal of the firearm named in the indictment at the time of sentencing, pursuant to 18 U.S.C. § 3665. The defendant further abandons the firearm to the federal government, and has as part of this agreement has executed the attached abandonment form.

7. The defendant's rights under the plea agreement shall in no way be dependent upon or affected by the outcome of any case in which the defendant may testify.

8. The defendant is agreeing to plead guilty because the defendant admits that the defendant is guilty.

### III Essential Elements of the Offenses

#### 1. Count Three - felon in possession of firearm/armed career criminal

To convict MILES of the charges in count three of the indictment, the government must prove the following essential elements, under 18 U.S.C. §922(g)(1):

*One:* that MILES knowingly possessed a firearm or ammunition,

*Two:* that at the time he possessed the firearm or ammunition, MILES stood convicted of a crime punishable by more than one year's imprisonment, and

*Three:* that the firearm or ammunition was possessed in or affecting interstate or foreign commerce.

2. Count Two - 924(c)

18 U.S.C. § 924(c) as amended, effective November 13, 1998, provides in relevant part as follows:

"(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime--

"(i) be sentenced to a term of imprisonment of not less than 5 years;

"(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

"(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

The essential elements of that portion of 18 U.S.C. § 924(c) charged in count two are

*One:* that the defendant knowingly committed a "drug trafficking crime"  
[possession of crack cocaine with intent to distribute]; and

*Two:* that the defendant knowingly

*Three:* carried a firearm

*Four:* during and in relation to the drug trafficking crime.

IV. Maximum Penalties

MILES faces a minimum of 15 years to a maximum of life imprisonment, a \$250,000 fine (18 U.S.C. § 3571(e)) and five years supervised release (18 U.S.C. § 3583(b)), together with a mandatory assessment of \$100 (18 U.S.C. § 3013(a)(2)(A)), if convicted of Count Three, charging a violation of 18 U.S.C. § 922(g)(1) and 924(e). Under Count Two, which charges a violation of 18 U.S.C. § 924(c), MILES faces a minimum mandatory term of 60 months imprisonment up to life imprisonment to be served consecutively to any other term of imprisonment imposed, together with a \$250,000 fine, three years of supervised release and a mandatory assessment of \$100.

V. Factual Basis for Plea

On December 8, 1998 at about 8 p.m., P/O Brian Reynolds was approached by an unknown black male who told him that there was a black male inside a blue automobile with a white top selling drugs in the 4100 block of Brown Street. Reynolds and his partner, P/O Jeff Walker, went to the location and observed a car fitting the description. Walker approached the car on foot as Reynolds trailed in an unmarked car. As Walker approached the car, he saw DANIEL MILES sitting in the driver's seat, pouring clear packets with an off-white chunky substance into his right hand from a pill bottle held in his left hand. Walker grabbed the bottle and 25 clear plastic packets containing crack from MILES' hands and removed MILES from the car. Reynolds recovered a clear plastic baggie containing three large chunks of crack from MILES' inside jacket pocket. Walker recovered \$271 in currency from MILES. Reynolds also searched the car incident to arrest and recovered a Lorcin .380 handgun, serial number 119422, loaded with seven live rounds of ammunition, under the driver's seat.

A female named Kim Williams was sitting in the passenger seat of the car in which Miles

was sitting at the time he was arrested. Williams is expected to testify at trial that the gun was not hers and she knew nothing about it or the crack. Jan Walker, who owned the car MILES was sitting in, is expected to testify at trial that she is MILES' girlfriend, that he lives with her, that he had been working on the car for the week prior to his arrest, that she knew nothing about the gun, did not own a gun, and knew nothing about the crack found on MILES.

A fingerprint expert would testify at trial that the DANIEL MILES of the lengthy record listed above is one and the same with the DANIEL MILES arrested by P/O Reynolds and Walker, based on the fingerprints drawn from his prior conviction records and his current arrest.

Copies of the three prior convictions which qualify MILES for armed career criminal status would be produced at trial.

At trial, the government would introduce testimony of an ATF agent and/or a police officer from the Firearms Identification Unit, Philadelphia Police Department, who will testify that the pistol is a "firearm" within the meaning of 18 U.S.C §921(a)(3) and that it traveled in interstate commerce at some point prior to the date of arrest, since the gun was manufactured outside the Commonwealth of Pennsylvania.

A chemist from the Philadelphia Police Department's Chemical Lab weighed and tested the substances taken from MILES and confirmed that the substances were approximately 29 grams of cocaine base ("crack").

## VI. Conclusion

This memorandum sets forth only the essential facts that would need to be proven to establish the elements of the offenses charged.



Respectfully submitted,

MICHAEL R. STILES  
United States Attorney

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J. HUNTLEY PALMER  
Assistant United States Attorney  
Chief, Firearms & Arson

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RICHARD A. LLORET  
Assistant United States Attorney

Date: April 23, 1999

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I caused a true and correct copy of the foregoing  
to be served by fax and regular mail upon the following:

Willie Lee Nattiel, Jr.  
1315 Walnut Street, Suite 732  
Philadelphia, PA 19107  
(fax) (215) 545-0893

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Richard A. Lloret  
Assistant United States Attorney

Dated: August 11, 2003